

Emergencies Act – Order Relating to Financial Services

List of Positions & Questions – AML

The CBA has initiated several workstreams under specialists groups (Legal, AML, Corporate Security and Communications) to support the industry's response to the actions taken by the government under the Emergencies Act (Act).

In response to the Order and corresponding Regulations being posted, the following preliminary positions and questions have been drafted to support ongoing dialogue between the CBA, members, public stakeholders and law enforcement. The below list does not represent a comprehensive list of positions, questions or issues, and is subject to ongoing change.

1. **Provision of Information / Lists to FIs by Law Enforcement:** We understand that a single point of contact at the RCMP has been established for communicating information relating to designated persons and related communication from the RCMP to banks. In discussions with the RCMP, it has been indicated that banks may also receive orders under the Act from provincial and other 'non-RCMP' agencies.

We would request that all orders under the Act from provincial law enforcement or other 'non-RCMP' agency be first provided to the RCMP for consolidation, before being distributed to banks.

2. **Definition of a 'Designated Person':** The Act's corresponding Economic Measures Order states that a designated person "*means any individual or entity that is engaged, directly or indirectly, in an activity prohibited by sections 2 to 5 of the Emergency Measures Regulations.*"

Banks require additional clarity on the definition of a designated person. We would ask that the Government provide further context and/or guidance on this definition to assist banks in effectively and efficiently operationalizing the identification of these persons. We would suggest that additional clarity come through guidance or instruction from the Government or the RCMP.

In lieu of additional guidance and clarity reference above, banks will apply the definition of designated person as follows:

- Any person identified as a designated person in a relevant court order; and
- Any person identified as a designated person under the Emergencies Act in a communication from the RCMP.

3. **Identification and Disclosure to RCMP of New Information:** In line with s. 5 of the Emergency Economic Measures Order, banks will take efforts to identify and disclose to the RCMP or CSIS:

- the existence of property that they have 'reason to believe' is owned, held or controlled by or on behalf of a designated person; and
- any information about a transaction or proposed transaction in respect of property referred to above.

Banks will not create new operational processes to proactively identify this information but may identify it through existing, business-as-usual monitoring and analysis processes. If banks identify the aforementioned property, and related transactions (proposed or completed), that have not been previously disclosed by the RCMP this will be reported to the RCMP.

Banks will expect the RCMP to analyze the information provided and make a determination as to whether the information provided would cause an individual or entity to be classified as a designated person. No action (eg. freezing of accounts, ceasing services) will be taken by banks until an individual or entity is identified as a designated person.

4. **Appeal / Challenge Process and Customer Communication:** Banks would request that a formal line of communication be established and operated by the RCMP to receive and respond to customer inquiries relating to the application of the Act. This could include a formal appeals process or protocol to allow individuals and entities - who have been impacted by measures that banks have been required to take - to request further information.
5. **[Question] Duty to Cease Dealings (s. 2):** Section 2 outlines actions required to be taken by banks, including (but not exclusive to) freezing a customer account. The Order would appear to direct banks to take such action immediately upon identifying any property relating to a designated person; however, we understand from discussions with law enforcement that there may be an expectation to advise the RCMP before taking any action outlined in Section 2.

Can Finance confirm whether banks are required to inform the RCMP, or any other agency, before taking any such action?

6. **[Question] Publication of Designated Persons:** Will lists of designated persons be published and made publicly available?